

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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TERRANCE LEGETTE, EUGENE BUTLER, DELMUS  
LAMONT THOMAS, JOEL ALMANZAR, ANTOINE  
SMITH,

Plaintiffs,<sup>1</sup>

-against-

ORDER  
19-CV-4622 (JS) (GRB)

SUFFOLK COUNTY CORRECTIONAL FACILITY,  
JOHN DOE,

Defendants.

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APPEARANCES:

For Plaintiff: Terrance Legette, 740164, pro se  
Antoine Smith, pro se  
Joel Almanzar, pro se  
Suffolk County Correctional Facility  
110 Center Drive  
Riverhead, New York 11901

For Defendants: No appearance

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<sup>1</sup> Although the caption of the Complaint includes five individuals, only three - - Antoine Smith ("Smith"), Joel Almanzar ("Almanzar"), and Terrance Legette ("Legette") - - have signed it. In addition, none of the Plaintiffs have remitted the filing fee and only Legette has filed an application to proceed in forma pauperis and a Prisoner Litigation Authorization form ("PLRA"). While ordinarily the Court would require each Plaintiff to sign the Complaint and file independent in forma pauperis applications and PLRA forms, given the consolidation of the instant Complaint with the class action described herein, the Court dispenses with these requirements. However, should any of these individuals other than Legette seek to pursue claims beyond the scope of the class action, each Plaintiff shall file his own signed Complaint as well as the filing fee or an in forma pauperis application and PLRA.

SEYBERT, District Judge:

On August 8, 2019, incarcerated pro se plaintiffs Legette, Smith, and Almanzar (collectively, "Plaintiffs") filed a Complaint in this Court together with an application to proceed in forma pauperis. Upon review of the declaration of Legette in support of his application to proceed in forma pauperis, the Court finds that Legette is qualified by his financial status to commence this action without prepayment of the filing fee. Accordingly, Legette's application to proceed in forma pauperis is GRANTED.

Pursuant to the Court's January 23, 2012 Order of Consolidation in Butler, et al. v. DeMarco, et al., No. 11-CV-2602 (JS) (GRB) (the "Consolidated Action"), the Court has reviewed the instant Complaint and finds that it relates to the subject matter of the Consolidated Action. (Order of Consol., Consol. Action Docket Entry 327.) Accordingly, this action shall be consolidated with the Consolidated Action. This affects Plaintiffs in the following ways:

1. Plaintiffs in this action shall become members of the certified classes in Butler (11-CV-2602);<sup>2</sup>

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<sup>2</sup> The classes are defined as follows:

(1) [A]n Injunctive Class comprised of all persons who, now or at any time in the future, are or will be detainees or prisoners in the custody of the Suffolk County Sheriff's Department and housed in the SCCF [Suffolk County Correctional Facility], with separate subclasses for those persons detained in Riverhead and Yaphank; and

2. Any claims in the instant Complaint that are not included in the Consolidated Amended Complaint in Butler shall be severed (see Order of Consol. at 17 (describing the process for proceeding with any severed claims after the resolution of the Consolidated Action)); and
3. Plaintiffs, as members of the class, shall be represented by pro bono counsel, Shearman & Sterling LLP.<sup>3</sup>

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(2) [A] Damages Class comprised of all persons who are or were detainees or prisoners in the custody of the Suffolk County Sheriff's Department and housed in the SCCF and who were or will be released from the SCCF on or after April 5, 2009, with separate subclasses for those persons detained in Riverhead and Yaphank.

(See Aug. 29, 2016 Order, Consol. Action Docket Entry 428, at 2-3.)

On August 29, 2016, this Court in the Consolidated Action adopted Magistrate Judge Gary R. Brown's Report and Recommendation and granted the Defendants' cross motion to amend the class definitions to "exclude all Suffolk County Correctional Facility inmates 'who were or have been housed exclusively at the new jail facility in Yaphank, New York.'" (Aug. 29, 2016 Order at 3-5.)

<sup>3</sup> Counsel's mailing address is:

Daniel Hector Rees LaGuardia  
Shearman & Sterling  
599 Lexington Avenue  
New York, NY 10022

Counsel's telephone number is: (212)848-4000.

A copy of the Order of Consolidation and the operative complaint in Butler--the Consolidated Amended Complaint (Consol. Am. Compl., Consol. Action Docket Entry 334)--are annexed to this Order.

If Plaintiffs do **not** wish to proceed as members of the Consolidated Action, they must so indicate in a letter to the Court within thirty (30) days of receiving a copy of this Order. Upon receipt of such a letter, the Court will direct the Clerk of the Court to sever this Complaint from the Consolidated Amended Complaint and reopen and reinstate the individual pro se action.

For the foregoing reasons, Legette's application to proceed in forma pauperis is GRANTED and the Clerk of the Court is directed to CONSOLIDATE this matter with Butler, et al. v. DeMarco, et al., No. 11-CV-2602; to mail a copy of this Order, the Order of Consolidation, and the Consolidated Amended Complaint to Plaintiffs at their last known address; and to mark this case CLOSED.

SO ORDERED.

/s/ JOANNA SEYBERT  
Joanna Seybert, U.S.D.J.

Dated:     October   7  , 2019  
           Central Islip, New York